

ORIGINAL

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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Illinois Commerce Commission
RAIL SAFETY SECTION

CITY OF GRANITE CITY,
an Illinois municipal corporation,

Petitioner,

vs.

Docket No. T02-0067

ILLINOIS DEPARTMENT OF
TRANSPORTATION, GATEWAY EASTERN
RAILWAY COMPANY, THE KANSAS CITY
SOUTHERN RAILWAY COMPANY (successor to
GATEWAY WESTERN RAILWAY COMPANY),
NORFOLK SOUTHERN RAILWAY COMPANY,
and UNION PACIFIC RAILROAD COMPANY

Respondents.

**JOINT EXCEPTIONS OF GATEWAY EASTERN RAILWAY COMPANY
AND THE KANSAS CITY SOUTHERN RAILWAY COMPANY TO THE
ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER**

COMES NOW Gateway Eastern Railway Company ("GER") and The Kansas City Southern Railway Company ("KCSR") and for their Joint Exceptions to the Administrative Law Judge's Proposed Order dated January 6, 2005 states:

1. The Administrative Law Judge's Proposed Order dated January 6, 2005, was received by counsel for GER and KCS by U.S. mail on January 10, 2005.

2. The Proposed Order should be modified to substitute the name "Gateway Eastern Railway Company" for the name "Gateway Western Railway Company" each place the name "Gateway Eastern Railway Company" appears in the Proposed Order other than in the case style. At the time this case was originally filed, Gateway Western Railway Company ("GWR") and Gateway Eastern Railway Company ("GER") were separate companies. Thereafter, GWR and GER were purchased by Kansas City Southern, Inc., which eventually merged GWR into The Kansas City Southern Railway Company ("KCSR"), but continued to

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hold GER as a subsidiary. At this time, GWR no longer exists and its assets and rail operations are owned by KCSR, which is successor-in-interest to GWR with respect to the matters at issue in this proceeding. GER continues to exist and operates a rail line through the crossings at issue in this proceeding. Therefore, Proposed Order should be directed to KCSR and GER, not KCS and GWR.

2. Footnote 3 in Appendix A to the Proposed Order should be modified as follows:

~~The Railroads (Norfolk Southern Railway Company, the Union Pacific Railroad Company, the Kansas City Southern Railway Company) contribution for the Pontoon Road Bridge shall not exceed \$732,357 based on current cost information provided by the City of Granite City. Railroad contributions shall be used to pay for the following work items: The respective contributions of the railroads (totalling \$732,357) shall be as follows: Norfolk Southern Railway Company - \$366,179; Union Pacific Railroad Company - \$183,089; The Kansas City Southern Railway Company and Gateway Eastern Railway Company (jointly) - \$183,089. The contributions of the railroads shall be used to pay for the following work items:~~

- Collectively, 5% of the work items directly related to the portion of the proposed Pontoon Road Bridge over the railroad property, and the East and West highway approaches to the Pontoon Road Bridge.
- Collectively, 5% of the work items directly related to the Century Drive Extension.


~~The Railroads contributions of the railroads shall be paid~~ Each railroad shall pay its respective contribution to the City upon ~~completion~~ opening of the Pontoon Road Bridge ~~and its opening~~ to vehicular traffic. The Railroads shall be responsible for removing their respective crossing surfaces and warning devices from the 22nd Street crossing at their own expense.

3. Based on the discussion at the hearing on October 12, 2004 and the understanding reached at that time, the following paragraph should be inserted between the paragraph that begins at the bottom of page 3 and continues on the top of page 4 and the first full paragraph on page 4:

With regard to the removal and replacement of the NS's yard office building as part of the extension of Century Drive, the City notes and the parties agree that the current estimate of \$23,844,522 does not include this cost, which is estimated by the NS to be \$219,500. Payment of this cost will be a matter of negotiation between NS, the City, and the Grade Crossing Protection Fund and will not increase the contribution of IDOT, Union Pacific Railroad Company, Gateway Eastern Railway Company or The Kansas City Southern Railway Company toward the cost of this project as set forth in Exhibit A.

4. Footnote 6 in Appendix A should be modified as follows:

Any project costs above the estimated amount of \$23,844,522 will be divided between the GCPF, the Railroads, IDOT, and the City in the same percentages noted above. the responsibility of the City subject to the Commission's jurisdiction to reopen the case to allocate these additional costs among the parties in accordance with the Commission's statutory authority.

By 
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OF COUNSEL
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Attorney for Respondents Gateway Eastern
Railway Company and The Kansas City
Southern Railway Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Joint Exceptions of Gateway Eastern Railway Company and The Kansas City Southern Railway Company to Administrative Judge's Proposed Order was served on those listed below via fax on the 15th day of January, 2005, and via U. S. Mail, first class, postage prepaid, on the 18th day of January, 2005, to the following:

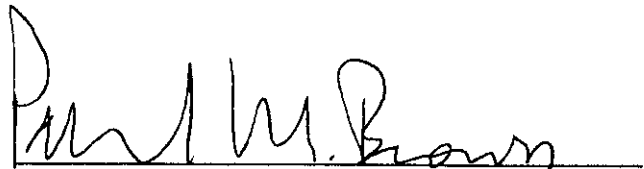
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A handwritten signature in black ink, appearing to read "Paul M. Brown", is written over a horizontal line.